

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006069

Variance

Hearing Date:

August 9, 2006

Agenda Item:

8

Supervisory District:

4

Applicant/Owner:

Robert Lelakowski

Request:

Variance to:

Permit an existing detached accessory structure (tack room) to setback 14 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district.

This variance is requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.4.2

Site Location:

2224 North 200th Avenue – Encanto Boulevard and 200th Avenue (Buckeye area)

Site Size:

47,221 square feet (1.1 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition:

One e-mail of support has been received. No opposition is known.

Staff

Recommendation:

Deny

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Encanto Boulevard/single-family residence
South: Single-family residence
East: 200th Avenue/single-family residence
West: Single-family residence

Background:

3. **July 6, 1971:** The Valencia Village subdivision was recorded.
4. **Circa 1972:** Building permit **28883B** was issued for a single family residence on the subject site.
5. **Circa 1977:** Zoning Clearance **77-1469** was issued for a detached garage. This garage is now attached to the existing residence via a breezeway. Staff research found no evidence of permits being issued for the breezeway structure.
6. **Circa 1985:** A Zoning Clearance (**85-1053**) was granted for a swimming pool on the subject site. Staff could find no evidence that this pool was ever constructed.
7. **April 29, 1991:** The current owner took title to the subject property via a Warranty Deed recorded under docket number **91-188829**.
8. **June 15, 2006:** The owner was issued building permit **B200604296** for a detached garage/storage accessory structure.
9. **June 15, 2006:** The owner applied for this variance request.

Findings:

10. **Maricopa County Department of Transportation:** No response at the time this report was written.
11. **Flood Control District:** No objections to this request (see attached e-mail).

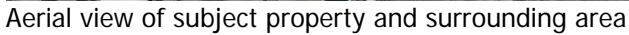
12. **Environmental Services Department:** No response at the time this report was written.
13. **Drainage Administration:** No drainage concerns.

Site Analysis:

14. The site is located in the western portion of the Valley in the Buckeye area and is zoned Rural-43. More specifically, this site is located on West Encanto Boulevard approximately ½-mile north of McDowell Road, between 200th Avenue and 201st Avenue. Jackrabbit Trail is ¾-miles to the east and Tuthill Road is ¼-mile to the west. This rectangular shaped property is slightly more than one acre in area, measuring 162.7 feet wide by 286 feet deep with an east/west lot orientation.
15. Currently, the site is developed with a 1,850-square foot, single-family residence, an 815-square foot detached garage and a 660-square foot detached accessory structure (storage room). The applicant has received building permits for a 3,000-square foot garage/storage building that will be built approximately 60 feet to the west of the residence. Staff found no evidence of any on-site washes or other topographical features. The developed portion of the site is level and free from any physical or topographical hardships. It should be noted; however, that there is a 10-foot wide equestrian trail and drainage easement along the rear property line of the subject site. The area surrounding the residence and accessory structures has been cleared of native vegetation. There is a pipe rail fence located around the rear of the site and wood split rail fencing around the front yard area.
16. The subject site is a corner lot and access can be taken from either Encanto Boulevard to the north or via 200th Avenue to the east. This site faced 200th Avenue and this is considered to be the "front" of the site. In this area, Encanto Boulevard is paved, 28 feet wide for most of its length, and is a 60 foot dedicated right-of-way. 200th Avenue is a 24 foot wide paved roadway local access roadway.
17. The following table is included to illustrate the differences between the underlying zoning district standards and the standards proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	43-feet
Rear Yard Setback	40-feet	90-feet
Side Yard Setback	30-feet	14-feet
Street Side Setback	20-feet	24-feet
Maximum Height	30 feet/2 stories	22.5 feet/1 story
Minimum Lot Area	43,560 square feet	47,221 square feet
Minimum Lot Width	145-feet	140.79-feet
Lot Coverage	15%	13.4%

*Standards indicated in **bold** do not meet minimum base zoning standards.



18. The subject site is located in an approved subdivision, Valencia Village, and more recent development in the general area has occurred on lots which have also developed through the subdivision process. In addition to the home on the subject site, most of the neighboring homes were built in the 1970s with only a few more recent homes built in the general area. The surrounding area is a mix of site built homes and manufactured homes on large rural lots. Many of the undeveloped parcels have been cleared of native vegetation.

19. A drive through the subdivision revealed that many accessory structures are present that are similar to the one on the subject site. It appears that most of these structures were erected without the benefit of permits. This request appears to be in character with the surrounding area.
20. Staff research found evidence of only one other variance request within this subdivision. This variance was very similar to the current request and was for the property immediately adjacent to the west of the subject site. Case **BA78-361** was a request for a variance to permit a proposed detached garage to setback 6 feet from the side (south) property line where 30 feet is the minimum required. Staff was unable to determine the outcome of this request; however, a building permit (78-14691) was issued for a garage on this site and a similar structure can be seen in the aerial photo above.

Plan Analysis:

21. This is a request to permit an existing detached accessory structure (tack room) to setback 14 feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. This request came about when the owner applied for a building permit for a detached accessory structure (garage) and it was noted that the existing detached storage building did not meet setback requirements. Aerial photos indicate that this structure has been present on site at least as far back as 1999. Staff was unable to determine exactly when this building was constructed. The applicant states that 1973 was the construction date, but staff has been unable to verify this though it certainly seems possible this is the case due to the design and fabrication of the building.
22. Staff could find no evidence of any topographical hardships that limit development on the site. There is, however, an easement for equestrian and utility purposes along the rear 10 feet of the subject site. This easement could conceivably restrict development of accessory structures in the required rear yard area. Typically, such structures are allowed to be located as close as 3 feet from the rear and side property lines provided that the building is located entirely within the required rear yard. This easement takes up a portion of this alternative building area but is only 10 feet in width. The building in question could still locate within the required rear yard and meet setback requirements.
23. The applicant states that to eliminate this structure would be a waste of materials and money. The applicant further states that, since the building was erected, two additions were made to the property with properly issued building permits. There was no mention of this illegal structure when either of the other permits was reviewed or issued.



Aerial view of the subject site.

24. Staff is of the opinion that there are alternatives available to this request that eliminate the need for this variance. The building could be relocated on the site to meet setbacks. There is a physical hardship in the form of the equestrian/utility easement; however, it appears that this does not form an insurmountable barrier to development of the site. The applicant has the existing residence, a detached garage and is proposing a large detached accessory structure. It would appear that there is a reasonable use of this property without granting this request. Staff recommends denial of this request, but would request that the Board take the existing easement and the age of the building into consideration when making a decision.

Recommendation: (BA2006069)

25. Staff recommends **denial** of this variance request based on the following:

- There is a reasonable use and enjoyment of the property without this variance request.
- The request conflicts with the intent of the Zoning Ordinance.
- There are reasonable alternatives available to the applicant that would eliminate the need for this request.

26. If the Board finds that a reasonable use of the property can be made without this variance, then this request may be approved, subject to the following stipulations:

- a) Submittal and approval of a revised site plan, drawn to scale, within 30 days of Board approval.
- b) The applicant shall obtain as-built permits within 180 days of Board approval.

mjw/clh

Attachments: Case Map BA2006069
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire (2 pages)
Case Map for BA78-361
E-mail of support
FCD E-mail